

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OMAR MARTINEZ,

Plaintiff(s)
Petitioner(s)

INDEX #:
08 CV 4974
DATE FILED:
05/29/2008

- against -

SPOTO'S RESTAURANT, INC. AND PETER SPOTO

Defendant(s)
Respondent(s)

JUDGE:
SWEET

STATE OF NEW YORK: COUNTY OF NASSAU: ss:

ELLIOTT STERNBERG, BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION AND IS OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK

That on 06/05/2008, 11:00PM at 4005 EAST TREMONT AVENUE, BRONX NY 10465, deponent served the within SUMMONS IN A CIVIL ACTION & COMPLAINT AND JURY DEMAND on PETER SPOTO, a defendant in the above action.

By delivering a true copy thereof to and leaving with GRACE SPOTO/MOTHER/CO-WORKER, a person of suitable age and discretion at the above address, the said premises being the defendant's place of business within the State of NEW YORK.

C/O SPOTO'S RESTAURANT, INC.

Deponent completed service by depositing a copy of the above described papers in a post paid, properly addressed envelope in an official depository under the exclusive care and custody of the United States Post Office in the State of NEW YORK, on 06/06/2008 addressed to defendant PETER SPOTO at C/O SPOTO'S RESTAURANT, INC. 4005 E., TREMONT AVE., BRONX, NY 10465 with the envelope bearing the legend PERSONAL AND CONFIDENTIAL and did not indicate on the outside thereof that the communication was from an attorney or concerned an action against the defendant.

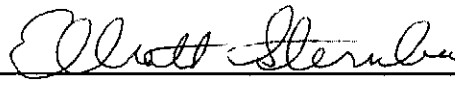
DEPONENT DESCRIBES THE INDIVIDUAL SERVED AS FOLLOWS:

Sex F Approximate age 80 Approximate height 5'03" Approximate weight 125 Color of skin BROWN Color of hair GRAY

GRACE SPOTO told the deponent that PETER SPOTO was not presently in the military service of the United States Government or on active duty in the military service in the State of NEW YORK or a dependent of anybody in the military.

THE LAW OFFICE OF
JUSTIN A. ZELLER

251 WEST 14TH STREET
5TH FLOOR
NEW YORK, NY 10011
(212)229-2249


ELLIOTT STERNBERG License # 1184595

Sworn to before me on 06/06/2008
MAUREEN MCCAFFREY NO.01MC5018583
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN SUFFOLK COUNTY
COMMISSION EXPIRES OCTOBER 4, 2009

